IN THE

Supreme Court of the United States

OCTOBER TERM 1975

No. 75-921

JOHN J. WILD, M. D.,

Appellant,

vs.

FRANK M. RARIG, MINNESOTA FOUNDATION, a Minnesota nonprofit corporation, and AMHERST H. WILDER FOUNDATION, a Minnesota nonprofit corporation,

Appellees.

JURISDICTIONAL STATEMENT

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Comes now the Appellant herein and respectfully shows the Court, pursuant to Rule 15 of the Supreme Court of the United States:

(a) The the following decisions were made:

(1) Official Opinion is Minnesota Supreme Court #44238 (Appendix A-

[1975] ___ Minn. ___, 234 N.W. 2d 775).

(2) Official Opinion denying Petition for Rehearing (Appendix B).

(b) The jurisdiction of this court is invoked on the following grounds:

(i) This is an appeal from a judgment by a temporary substitute state supreme court invalidating and setting aside a judgment in favor of the appellant of over 16-million dollars (nearly 19-million at the time of the final appellate decision below), wherein is drawn into question the validity of a state statute on the ground that it is repugnant to the Constitution of the United States and the decision(s) of both the Minnesota temporary and permanent Supreme Courts below is in favor of its validity. (The regular supreme court below disqualified itself en banc because of serious compromising of their integrity and responsibility as judicial officers wherein their qualifications became the subject of affidavits of prejudice and motions for recusation. Nonetheless, the disqualified court "lobbied" through the Minn-

esota Legislature, in a matter of days, a special statute allowing the disqualified judges to appoint their own replacements thereby allowing the prejudiced judges to essentially control the appeal.) The statute pursuant to which this appeal is brought is 28 U.S.C.A. 1257 (2) and 28 U.S.C.A. 2106.

(ii) The date of the original opinion by the substitute Minnesota Supreme Court is January 10, 1975. It was filed on January 10, 1975, but judgment thereon was not entered until October 20, 1975. Pursuant to order of the permanent court and the Rules of Civil Appellate Procedure for Minnesota, a Petition for Rehearing was filed on or about April 15, 1975. An order denying the petition by the substitute panel was received on August 12, 1975, by appellant's attorney but the order had been filed on August 8, 1975. The Chief Judge of the permanent Minnesota Supreme Court ordered the remand of the case on October 6, 1975. The notice of appeal was filed with the Clerk of the Minnesota Supreme Court, who is possessed of the record, on Monday, October 27, 1975.

(iii) 28 U.S.C.A. 1257 (2) - pertinent provisions as follows:

> "Final judgments or decrees rendered by the highest court of a state in which a decision could be had, may be received by the Supreme Court as follows:
>
> (1) . . .
>
> (2) By appeal, where is drawn into question the validity of a statute of any state on the grounds of its being repugnant to the Constitution . . . of the United States, and the decision is in favor of its validity." (Compare 28 U.S.C.A. 2103 insofar as it may be relative to corollary issues.)

28 U.S.C.A. 2106:

> "The Supreme Court . . . may affirm, modify, vacate, set aside or reverse any judgment, decree or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree or order, or require such further proceedings to be had as may be just under the circumstances."

(iv) The following cases, it is believed, amply sustain the exercise of jurisdiction in this case:

See 28 U.S.C.A. 1257 (2), cited

above;

Bantam Books, Inc. v. Sullivan, R. I. 1963, 83 S. Ct. 631, 372 U.S. 58, 9 L. Ed. 2d 584;

Winters v. People of State of New York, N.Y., 1948, 68 Sup.Ct.665. 338 U.S. 507, 92 L.Ed. 840;

Near v. State of Minnesota, Minn. 1931, 51 S. Ct. 625, 28 U.S. 697, 75 L. Ed. 1357;

Duncan v. Louisiana, 1967, 391 U. S. 145, (see esp. pp. 168-170);

Justice Black's Appendix in Adamson v. Calif., 1947, 322 U.S. 46 @ p. 73;

Griswold v. Conn., 1961, 381 U.S. 479;

Cooper v. Aaron, 1958, 358 U.S. 1;

Brown v. Board of Education, 349 U.S. 294;

U. S. v. United Mine Workers, 330 U.S. 258;

and, see especially,

Payne v. Lee, 1946, 222 Minn. 269, 24 N.W. 2d. 259; and,

People v. Suffolk Common Pleas, 18 Wend. N.Y. 550.

(v) Minnesota Statutes, 1974, Volume I, p. 50, also cited as Laws, 1973, Chapter 18, ss. 2, Governor App. March 9, 1973, also known as Minnesota Statutes Annotated 2.724, subd. 2.:

" CHAPTER 18-H.F.No.430

An act relating to the supreme court; providing for assignment of district judges and justices of the supreme court; amending Minnesota Statutes 1971, Section 2.723, Subdivision 2.

Be it enacted by the Legislature of the State of Minnesota

Section 1. Minnesota Statutes 1971, Section 2.724, Subdivision 2, is amended to read:

Subd. 2. SUPREME COURT; TEMPORARY ASSIGNMENTS. To promote and secure more efficient administration of justice, the chief justice of the supreme court of the state shall supervise and coordinate the work of the district courts of the state. The supreme court may provide by rule that the chief justice not be required to write opinions as a member of the supreme court. Its rules may further provide for it to hear and consider cases in divisions, and it may rule assign temporarily any retired justice of the supreme court or one district judge at a time to act as a justice of

the supreme court. Upon the assignment of a district judge to act as a justice of the supreme court a district judge previously acting as a justice may continue to so act to complete his duties. Any number of justices may disqualify themselves from hearing and considering a case, in which event the supreme court may assign temporarily a retired justice of the supreme court or a district judge to hear and consider the case in place of each disqualified justice. At any time that a retired justice is acting as a justice of the supreme court under this section, he shall receive, in addition to his retirement pay, such further sum, to be paid out of the general fund of the state, as shall afford him the same salary as an associate justice of the supreme court.

Section 2. This act is in effect upon final enactment.

Approved March 9, 1973.

Changes or additions indicated by underline, deletions by ~~strikeout~~."

(c) The following questions are presented by this appeal:

(1) Whether or not the appellant has been deprived of his 14th Amendment Civil Rights to due process and equal protection by the enactment of (as a result of fraudulent criminal lobbying and

legislative manipulation by the permanent Minnesota Supreme Court) and application to his case of Minnesota Statutes, 1974, Volume I, p. 50, also cited as Laws, 1973, Chapter 18, ss. 2, Governor App. March 9, 1973, also known as Minnesota Statutes Annotated 2.724,subd. 2, a statute which allows disqualified judges to appoint their own replacements. Thus, it was special legislation for this case designed to give major discretionary powers to supreme court judges who are admittedly prejudiced officers and visitors of the defendant-appellee foundations, in effect continuing control of the appeal by the disqualified court and allowing it to decide its own appeal.

(2) Whether or not Minnesota Statutes, 1974, Volume I, p. 50, also cited as Laws, 1973, Chapter 18, ss. 2, Governor App. March 9, 1973, also known as Minnesota Statutes Annotated 2.724,subd. 2, is inherently violative of the 14th Amendment by allowing disqualified supreme court judges to appoint their own replacements, thus making the disqualification reasonably meaningless as a

matter of due process and equal protection.

(3) Whether or not the appellant has been deprived of his 14th Amendment Civil Rights to due process and equal protection by corrupt and discriminatory appellate proceedings.

(4) Are there any differences between United States Constitutional standards of equal protection and due process when applied to civil litigation as compared to criminal prosecutions? Or, between appellate proceedings and trial? If so, what are the criteria? What are the justifications? What are the differences?

(5) What are the required United States 14th Amendment standards of fairness, impartiality and judicial administrative proceedings both substantively and procedurally in state appellate litigation? i.e., are civil jury verdicts subject to invalidation without federal constitutional restraints, thus, effectively negating the right to jury trial and a fair appellate hearing? If not, what are the constitutional standards under the 14th Amendment that must be

maintained by an appellate court to finally and permanently deprive a citizen of his proprietary interest in a judgment and for that appellate tribunal to change established standards of law and fact? Or, stated another way, can a prejudiced and corrupt appellate court arbitrarily void a jury verdict and judgment in a civil case without infringing due process and/or equal protection?

(6) At what point, if at all, does a party to litigation constitutionally (under the 14th Amendment guarantees of due process and equal protection) waive his right to a statutorily-created appellate review by corrupting the appellate judiciary?

(7) To what degree, if at all, does the United States Constitution require reasonably equal standing, both economically and influentially, before the court in civil appellate proceedings? What way do these standards effect the power of the appellate courts to set aside costly trials and large verdicts and order new trials, thus, in a practical sense, permanently denying a poor plaintiff due process and equal protection by subject-

ing him to additional catastrophic legal fees and infinite delays?

(8) What are the United States Constitutional standards (in selection and qualification) of impartiality of appellate judges?

(9) What are the United States Constitutional standards (as to due process and equal protection civil rights), if any, of the contents of an appellate opinion and an order denying a petition for rehearing? 'e.g.,as to fact-finding, as to law and reasoning?

(10) Are there any 14th Amendment or other United States Constitutional limitations on an appellate court's usurpation of the fact-finding power of a jury and the abrogation of the legal function of the trial court? If so, what are the standards? and,

Did the Minnesota Supreme Court and its substitute hearing panel violate "these standards" so as to deprive the appellant of due process and equal protection?

(11) Is the failure to follow Rules of Civil Appellate Procedure and/or the failure to apply established laws by the

Minnesota Supreme Court and its substitute hearing panel a violation of due process and equal protection?

(12) Can the granting of a new trial standing alone constitute a violation of due process and equal protection when such an order is manifestly fraught with endless delay. a destruction of the trial court function, a nullification of the right to a jury trial, consequently making the new trial an exercise in futility?

(d) The following is a concise resume of the stages during the proceedings below in which the federal questions sought to be reviewed were raised pursuant to Rule 15, 1. (d):

Ten days before the defendants at trial level (appellees herein) filed their notice of appeal and shortly after their motion for a new trial was denied, a bill sponsored by the Supreme Court of Minnesota was introduced contemporaneously in both houses of the Minnesota Legislature (February 5,1973). The bill was reported out of both committees, AGAIN CONTEMPORANEOUSLY, on the day the appellees filed their notice of

appeal to the Minnesota Supreme Court, to-wit: February 15, 1973.

The appellant (plaintiff at trial) herein was unaware of such action or the contents of the proposed legislation (statute). No public hearings were noticed to the appellant and the bill was rushed through and signed by the governor on March 9, 1973.

The first knowledge the appellant had that a bill of any nature was being sponsored, or even contemplated, by the Supreme Court for "special" handling of this case was when the Minnesota Supreme Court would not accept (even for filing) affidavits of prejudice signed on February 15, 1973 by Dr. Wild and his counsel, immediately after receipt of the notice of appeal and presented for filing the next day.

The clerk at first accepted the affidavits of prejudice but returned them with a covering letter dated February 21, 1973, stating, "At the instruction of the court, I am returning to you the 'affidavits of prejudice' sent for filing in the above entitled matter . . . For your information, I am enclosing a copy of the memorandum of the court relating to its

efforts . . . "

The memorandum stated inter alia:

> ". . . The court has requested that the legislature provide such legislation so as to permit some or all of its members to substitute district court judges in their place if circumstances warrant . . . " (Emphasis ours.)

While the letter was dated February 21, 1973, it was not received until February 23, 1973, the day AFTER (Feb. 22, 1973) the bill was passed contemporaneously again by both houses. (Ed. Nt. Minor verbal changes were required and the bill was again repassed contemporaneously on March 5, 1973, and signed by the governor on the 9th.) On March 12, 1973, motions for recusation and disqualification were filed. (These motions were never acted upon directly nor were the reasons for the supreme courts "en banc" self-disqualification made public or disclosed in anyway in these proceedings.)

The appellant (plaintiff-respondent below) was informed of the essential text of the new "law" in a letter dated March 12, 1973, again from the Clerk of the Minnesota Supreme Court, acting on behalf

of the supreme court, advising the enactment of the new "law" and informing the parties that the entire court was disqualifying itself and, pursuant to the new statute ". . . may assign temporarily . . . a district judge to hear and consider the case in place of each disqualified justice." (Apparently quoting from the Act. Chief Judge Knutson had designated the Clerk of Court, Mr. McCarthy, as official recipient and dispenser of court matters. This usage was also adopted by his replacement Chief Judge Sheran.)

The appellant herein immediately procured a copy of the statute and directed inquiry to the court as to its implementation in the Wild case. (At this time, other than for the time relationship, the appellant did not know of the circumstances or representations that had been made to the legislature inducing the bill's passage.)

> " March 15, 1973
>
> Dear Mr. McCarthy:
>
> Re: Wild v. Rarig, et al.
> No. 44238
>
> This will acknowledge your letter of March 12, 1973. After

analyzing its contents and reading House File 430, we have several questions:

1. Will the Court be issuing a written order of disqualification specifying its application not only to themselves but to the new Chief Justice or any replacements or additions to the Supreme Court during the interim period referred to in Paragraph 3 of your letter?

2. Specifically, what method will be used in choosing the panel, i.e., will each disqualified justice choose his own replacement? Will the parties be allowed through their counsel to participate in the selection process? Will the court accept a stipulated panel prepared by the parties? Does the court prefer to name its own panel or does it prefer the parties to agree as to the panel?

Dr. Wild feels that if the judges appoint their own replacements, his chances for a fair hearing are not improved but may in fact be lessened, so your answers to the above questions are crucial.

3. I understand from your letter that there will be no assignment of judges to this case until after the filing of all briefs and appendixes. Is this correct and will this be included in the order if there is to be one?

4. Would the Supreme Court be willing to accept a panel of judges appointed by the Governor or, in the event he is disqualified, by the Lieutenant Governor?

5. Will the court allow the parties to examine the panel prior to its being authorized and empowered to hear the appeal to determine individual bias and prejudice?

6. Will the court allow a hearing on the merits of challenges for cause to the panel?

7. Does the court have any plan for avoiding the obvious criticism indicated above with reference to disqualified judges making their own appointments? No matter how well-intentioned the appointment may be, it is difficult to see how such appointees could be impartial in view of their relationship to those who appoint them.

8. Would the court be willing to accept a panel including lawyers, municipal, county and probate judges if the parties so stipulate?

We would be grateful for your considered answers to these questions so that we may determine the effect of your March 12, 1973 letter on our formal motions filed with you on Tuesday, March 13, 1973.

Very truly yours,

James Malcolm Williams

JMW:js
cc: Mr. Henry Halladay

Mr. William P. Luther "

(Emphasis ours for this Statement.)

The correspondence continued on the following dates: March 30, 1973; March 22, 1973; May 17, 22 and 30, 1973, but to no avail. In this regard, no answer was received to the March 15, 1973 letter. The court's position or "ruling", if you will, is as follows (Letter of May 22, 1973, McCarthy to Williams):

> "On instructions from the court, I wish to inform you that your case will be handled the same as any other case under the rules of the court and the statutes of the state. When the proper time comes, the court will appoint replacements for those members of our court who have disqualified themselves." (Emphasis supplied.)

We replied as follows:

" May 30. 1973

Dear Mr. McCarthy:

Re: Wild v. Rarig, et al
No. 44238

With all due respect, the questions posed in my March 15, 1973 letter, in my judgment, are not answered by the statement ". . . I wish to inform you that your case will be handled the same as any other case under the rules

of the court and the statutes of the state" made in your letter of May 22, 1973.

If it is the position of the disqualified court that they do not wish to answer the questions contained in the March 15, 1973 letter because of their disqualification, Dr. Wild feels the record should be clear on that point, at least.

If, on the other hand, it is the court's position that we are not entitled to have these questions answered on the grounds that the information is contained in sources available to us, would you be so kind as to specify the sources.

A third possibility is extant, that the disqualified court feels that the questions involved are immaterial and irrelevant matters insofar as due process requirements under the State and Federal Constitutions are concerned.

If none of the three postulates posed above is applicable, because of our possible allegorical myopia, any help you can give us would be deeply appreciated.

Very truly yours,

James Malcolm Williams

JMW:js
cc: Chief Justice Oscar Knutson
Chief Justice-Appoint Robert Sheran
Mr. Henry Halladay
Dr. J. J. Wild "

The Minnesota Supreme Court did not reply to this letter nor did it appoint the panel of replacement judges by any nethod to our knowledge at that time. Consequently, on August 10, 1973, a motion was filed to dismiss the appeal and for a public hearing thereon involving examination of the regular court:

> " Respondent above-named hereby moves for an Order of this Court scheduling the Respondent's Motion to Dismiss Appeal for a public hearing with the right of oral argument and the right to examine witnesses including, but not limited to, the Judges and Retired Judges of the Supreme Court.
>
> The Respondent herein respectfully requests that, notwithstanding Rule 127, cited infra, a public hearing on the above Motion be scheduled by the Supreme Court after due notice to the parties as a matter of due process, fairness to the parties and respect for the dignity, integrity and function of the law and of the highest appeal tribunal in this State and in the spirit manifested by this Court in Payne v. Lee (1946) 222 Minn. 269, 24 N.W. 2d. 259 @ 263, quoting a great American jurist, Judge Bronson, on 18 Wend N.Y. 550:

> "NEXT IN IMPORTANCE TO THE DUTY OF RENDERING A RIGHTEOUS JUDGMENT IS THAT OF DOING IT IN SUCH A MANNER AS WILL BEGET NO SUSPICION OF FAIRNESS AND INTEGRITY OF THE JUDGE." (Caps ours.)

Said Motion will be based upon all the files, records and proceedings had herein and, specifically, all documents and affidavits appended to the Motion for a Public Hearing on Respondent's Motion for Disqualification and Recusation and Respondent's Motion for Disqualification and Recusation, the attached affidavits and memoranda of law and the testimony under oath of the members and retired members of the Supreme Court of the State of Minnesota, if such be allowed at the time of hearing, if such hearing be allowed. It is expressly understood that the making of this Motion in no way constitutes a waiver of the right of the Respondent to have this motion heard in public and with proper testimony by the members of the Supreme Court and others, notwithstanding any provisions to the contrary to Rule 127 of the Rules of Civil Appellate Procedure. Rather, the Respondent specifically asserts his constitutional right to a public hearing and his right to examine the Supreme Court Judges as to their acts. Further, these

motions are made and filed without prejudice to any rights guaranteed the Respondent under the Federal and State Constitutions. Specifically, the motions do not constitute a modification of the Respondent's contention that he cannot receive either due process or a fair and impartial appellate hearing before the Supreme Court of the State of Minnesota or its appointees. This contention is poignantly manifest in the failure of a response of a definitive nature from the Supreme Court to the Respondent's questions relating to procedural and substantive due process expressed in a March 15, 1973 letter and reiterated thereafter in subsequent correspondence.

The formal motion categorically points out that:

" 1. The appellant corporations waived or are estopped from asserting their rights to appellate review and that said waiver or estoppel extends to the appellant Rarig in that his liability is limited to matters arising out of and in the course and scope of his employment by the appellant corporations and that said acts were authorized, directed and ratified and adopted as their own by the appellant corporations.

2. The appellant corporations constructively and impliedly waived or are estopped from asserting their appellate review rights by their own acts of commission or omission and that said waiver or estoppel extends to the appellant Rarig in that his liability is limited to matters arising out of and in the course and scope of his employment by the appellant corporations and that said acts were authorized, directed, ratified and adopted as their own by the appellant corporations.

3. The Supreme Court of the State of Minnesota, acting by omission or commission in its dual capacities as Supreme Judges of the State of Minnesota and as visitorial officers of the appellant corporations, such acts being expressly or impliedly authorized by the appellant corporations, have so compromised the constitutional rights of the Respondent herein as to constitute a waiver or estoppel implied in law and fact of the appellant corporations' statutory and constitutional rights to appellate review."

Notwithstanding the provisions of Minnesota Statutes Annotated 542.13, which forbids the exercise of discretionary functions by disqualified judges, the court acted, contrary to its own disqualification, continued its refusal to

reply to the March 15, 1973 letter and request, and denied the motions without reasoning, fact or law or memorandum on August 27, 1973:

> "It is hereby ordered that respondent's motion to dismiss the appeal in the above entitled case be and the same is hereby denied.
>
> August 27, 1973 By the court:
>
> Oscar Knutson, Chief Justice"

At this point, the appellant proceeded under the Federal Civil Rights Statute and asked for federal intervention because of the manifest breakdown in constitutional judicial administration in Minnesota. The federal district court refused to intervene and the 8th circuit affirmed without reasoning, fact, law, an opinion or memorandum. (See U.S. District Court, 4th Division of Minnesota File No. 4-73 Civ. 473, and 8th Circuit File No. 73-1137.)

The members of the regular Minnesota Supreme Court and their counsel, the State's Attorney General, claimed, astonishingly, without logic or factual support, that a deprivation of due process

and equal protection involving a near-complete corruption of the judicial process in Minnesota was not a "substantial federal question".

The 8th Circuit added to the constitutional indifference of the Minnesota Supreme Court by irrationally calling the entire matter "frivolous". (See Order of 3/22/74, 8th Circuit, CS.74-1137). The 8th Circuit refused upon special request, again without reasoning, law or facts, to issue an opinion. (See Order dated 5/17/74.)

Dr. Wild and his counsel continued to request answers as to substantive and procedural due process as well as equal protection matters under the new statute. The Minnesota Supreme Court continued to ignore the entreaties.

On February 15, 1974, appellant's counsel wrote to the court stating, "We have not yet received a reply to our letter of May 30, 1973. . . As outlined in our letter of March 15, 1973, and subsequent diligent correspondence . . . It has now been nearly a year since these simple questions, <u>the answers to which are required by basic due process</u>

were put to the court. The vital issues posed therein remain unanswered . . . " (Emphasis supplied for this Statement.) McCarthy's letter of March 1, 1974 ignores the matter and reiterates ". . . conformity with law in due course . . . " but no specific information. Our March 11, 1974, letter to the court via Mr. McCarthy states:

> ". . . We note that our repeated requests for definitive and responsive answers to the questions propounded in our March 15, 1973 letter continue to be ignored . . . The court is continuing to absquatulate from its constitutional responsibilities . . . "

Because of the Minnesota Supreme Court's unconstitutional behavior in refusing to disclose the procedures to be followed in the application of the statute to the Wild case, our suspicions as to the circumstances of its enactment were increased and on or about February 15, 1974, Attorney (and now law professor at Hamline University Law School) John Remington Graham was instructed to investigate for illegalities.

(See Affidavit of J. R. Graham of April 19, 1974, appended to Motion presented to temporary panel on May 6, 1974, noted infra.) He determined that the bills were considered by the sub-committee on Judicial Administration of the Senate on Feb. 6, 1974, the House Committee on Feb. 8, 1974, and the Senate Committee on the Judiciary on Feb. 13, 1974, and that tape recordings of such hearings were made. Mr. Graham listened to the tapes of the senate hearings which show the Supreme Court Administrator acting for the court in conjunction with the chairman, Senator Jack Davies, fraudulently representing material evidence of prior constitutional provisions and acts thereby inducing the passage of the Act by felonious means. (See Minnesota Statutes Annotated 609.425 which makes it a felony to corrupt the legislature by that means; see also Complaint of Judicial Misconduct, esp. pp. 9 to 13, dated April 15, 1974, and pages 2-4 of Mr. Graham's affidavit, cited supra.) The house committee tape had been tampered with. The tape was located but there

was nothing on it about the bill. As Mr. Graham graciously commented in his affidavit: ". . . It would appear that relevant portions of the tape had been erased. The minutes of the committee show that Mr. Klein appeared to explain the purpose of the bill . . . " Undoubtedly, the same fraud was perpetrated upon the House. (Parenthetically, a former attorney for the St. Paul Insurance Companies, now regular Chief Judge of the Minnesota Supreme Court Sheran, opposed rectifying this fraudulent corruption, thus killing a bill which would have been in conformity with the "old Constitutional" provisions which were misrepresented to the legislature by the Minnesota Supreme Court).

Finally, on April 10, 1974, the temporary panel was named and the hearing was set for May 22, 1974. (See Order dated April 10, 1974.)

Dr. Wild immediately moved that the temporary panel submit to voir dire for qualification in view of the gross appearances of prejudice, impropriety and criminality and to divulge and make public their prior contacts with the

regular court and the circumstances of their appointments. (Ed. Nt. Temporary panel Chief Judge Rosengren, himself also a former counsel for St. Paul Companies, called the criminal legislative corruption felony a mere "technicality". See Transcript of proceedings before panel, May 6 and May 21, 1974.) Further, "That . . . the . . . judges declare unconstitutional (and contrary) to Amendment XIV of the U. S. Constitution as applied to this cause, Chapter 18 of Minnesota Laws of 1973 (as it) . . . includes private or discretionary appointment (by a disqualified judge) of any substitute judge to decide such cause . . . "

That they ". . . declare null and void . . . Chapt. 18. . . . (because) inter alia . . . was enacted through unethical, wrongful, fraudulent, tortious and felonious acts, quasi-fiduciary non-disclosure, concealment and misrepresentation of facts . . . " by the Supreme Court of Minnesota acting through its Chief Administrator Klein.

And, finally, that they recuse themselves because of the unconstitutionality

of their appointments.

The temporary panel denied the motions without citing law, logic or factual bases for their decision:

> "It is hereby ordered that the motions of respondent herein be and the same are hereby denied in their entirety." (Order of temporary panel dated May 6, 1974.)

They did, however, disclaim "personal interest, prejudice or bias whatsoever against any or all of the parties herein" without affirmation or facts to support their assertion and intentionally made no disclosures whatsoever about their personal involvements with the regular court, the defendants or their attorneys. It is interesting that they did not disclaim favoritism or involvement for and with the appellants below, examples of which are listed in Addendum I to the Petition for Rehearing.

On the 7th of May, 1974, affidavits of prejudice against each individual member of the panel were filed and ignored by them. The main thrust of the affidavits relates to due process and equal rights under the Federal Con-

stitution:

> ". . . The members of said temporary Supreme Court . . . are disqualified jurisdictionally and ethically from sitting . . . and . . . that because of secret procedures in their selection, bias, conflict of interest and prejudice against your affiant . . . (he) cannot have a fair and impartial hearing on said appeal . . . Your Affiant will be deprived of his civil rights including, but not limited to, the right to due process and equal protection under the law and be further deprived of the rights and privileges secured to other citizens of this state . . . as the same are enshrined in the United States Constitution . . . "

Motions to dismiss the appeal and compel the defendant-appellants below to abide by the Minnesota Rules of Civil Appellate Procedure were filed without prejudice to the constitutionality of Chapter 18 or other constitutional issues and were summarily denied by the panel on May 21, 1974. The issues of constitutional waiver were presented as part of this motion. The panel was fully informed of the facts available relative to the Amherst Wilder-First

National Bank-St. Paul Insurance Companies intentional involvement with the Minnesota Supreme Court. (See Section (e) below and motions to dismiss before the temporary panel for details of these interrelationships.)

The oral argument disclosed a temporary panel completely unprepared and obviously primed to "help" the Amherst Wilder Foundation; the questioning was non-existent on material matters and otherwise prejudicial and immaterial to the issues. (See Transcript.)

Because of the refusal of the Supreme Court to disclose its procedures on this appeal, vis. a vis. Chapter 18, prior to submission to the temporary panel, a letter was addressed to McCarthy relative to procedures and law to be followed after submission.

"Chief Judge" Rosengren of the panel clearly established his prejudice by a reply in which he labeled the letter "personally impertinent" and was "IMPELLED ALSO TO SAY THAT IF HE (Dr. Wild) DOES NOT LIKE OUR JUDICIAL SYSTEM, . . . THAT AT THE CONCLUSION OF THIS LITIGATION HE RETURN TO ENGLAND WHERE

HE MAY ENJOY THEIR CUSTOMS MORE THAN HE APPARENTLY LIKES OURS." (Emphasis supplied.)

The constitutional deficiencies of the decision were treated in detail in appellant's (here) petition for rehearing. See especially pages 63 to 80.

See esp. at p. 64:

> "Without citing a single instance of misconduct, this panel reduced a long, complex and highly significant matter to five sentences of meaningless subjective terms without a definitive fact, a logical relationship or a supporting legal authority . . .
>
> . . . By ignoring uncontested evidence, reasonable inferences therefrom, unrefuted citations of established law and reasoning contained in cited opinions, the temporary Supreme Court in effect not only deprived Dr. Wild of equal rights under law, but in reality gave him no hearing at all on the appeal. The Opinion cannot be condemned excessively as it makes a corrupt sham of the judicial appellate process in Minnesota. It makes Dr. Wild's resort to law as a person wronged to the point of

> personal destruction, an exercise in futility. The panel's opinion standing alone is proof of constitutional deprivation . . . "

The "panel" waited nearly four months and issued a one-sentence order, again without facts, reasoning, logic or law in support:

> "It is hereby ordered that respondent's petition for rehearing in the above entitled matter be and hereby is, in all respects, denied." (See Order filed August 6, 1975.)

In an attempt to clarify these issues prior to submitting thepetition for rehearing, a motion was submitted (without prejudice to the constitutional issues involved), to the permanent court on January 20, 1975, which, among other things, asked the regularly constituted Minnesota Supreme Court to adopt or reject the orders, findings and actions of the temporary panel. (See Motion dated 1-20-75; letters of March 7, 1975, Wild and Williams to McCarthy; letter of 2-20-75, McCarthy to Williams with enclosures.) The permanent court refused to do this prior to the petition, (see Order of March 21, 1975), but when

the motion was renewed (see Motion dated August 15, 1975), the court adopted the panel's orders, actions and findings as its own and finally admitted (see Memorandum, page 2 of Order), that Judge Otis, a Vice President of the defendant (appellee here) foundations participated in the selection of the panel.

Chief Judge Sheran persists, however, to this day in refusing to divulge who wrote the panel's decision, who chose whom, whose idea it was to use senior or chief or other district judges, or when the appointing decision was made.

The economic disparity concept as a matter of United States Constitutional due process and/or equal protection was raised in the motion and rejected by the Minnesota Court: (See Order dated October 16, 1975; Motion dated August 15, 1975, paragraph 14; and, pages 65-66 of Petition for Rehearing.)

> ". . . relief requested . . . be and hereby is denied . . ."

> ". . . this matter is remanded to the District Court of Hennepin County for further procee-

dings consistent with the Opinion of the Minnesota Supreme Court filed on the 17th day of January, 1975."

All other corollary issues listed herein and not previously discussed in this section are raised in the Petition for Rehearing and Motion for Recusation and the Motions for Dismissal of the Appeal. They were summarily rejected or denied without comment by both the temporary panel and the permanent court (even after disqualification.) See citations supra.

THE FOLLOWING IS A CONCISE STATEMENT OF CASE CONTAINING FACTS MATERIAL TO THE CONSIDERATION OF THE QUESTIONS PRESENTED:

The defendant-appellee foundations control a substantial portion of the St. Paul Companies (a billion-dollar insurance complex and major underwriter of medical malpractice insurance with its home office in St. Paul, Minnesota), and have a Minnesota Supreme Court Judge as an officer and board member. The remaining members of the Minnesota Supreme Court (apparently acting or permanent) are "visitors" (protectors of assets) of the appellee Amherst H. Wilder Foundation. (Other board members of Wilder Foundation are equally influential and "establishment", e.g., the First National Bank cartel, the St. Paul Companies, a large law firm, 3M Company.) While the permanent supreme court has, by implication, denied that this "visitor" responsibility means anything, Amherst H. Wilder Foundation has never lost an appeal to the Minnesota court nor has any member of the Supreme Court of Minnesota or their temporary replacements ever renounced or repudiated their responsibilities as visitors to protect the defendant-appellees' assets. It is a small wonder that shortly after a verdict was returned and judgment entered against Wilder Foundation (of over 16-million dollars), the foundation printed without qualification or contingency in its certified annual accounting, with the unabashed hauteur of the all-powerful, that the judgment would be set aside. (See Statement, Wilder Foundation Annual Report, Fiscal 1972-1973.)

It was this same pervasive force that had destroyed Dr. Wild's career

as a brilliant medical research scientist and decimated his monumental interdisciplinary cancer research project. These acts, which gave rise to the trial below, were committed with such vicious malice that even the foundations' trial counsel was forced to concede the destruction, its inhumanity and malice. (See Resp. Supp. Record, pp. 199-200.)

At the conclusion of six weeks' testimony, the jury responded to the evidence by granting 11-million dollars in punitive damages (10% of the foundation assets) and over 5-million dollars in compensatory damages, THE LARGEST PERSONAL AWARD IN THE HISTORY OF LAW.

The power of the defendant-appellee foundations, their business and judicial connections, associates and their large law firms, was so deeply entrenched that to date, no settlement of any nature has been profferred by the defendant-appellees.

Acts of special privilege corruption of the appellate process in Minnesota, in this case, by these unscrupulous and morally unprincipled officer

and judicial visitors of the defendant-appellee foundations, provide the factual material necessary to the consideration of the questions presented. No rational being will deny that responsible use of wealth and power has contributed to make America great. But the Constitution was designed by the Founding Fathers to restrain abuse. This case is a classic example of the misuse and abuse of both wealth and power. There is evidence that the same pervasive power reaches into the executive and, in this case, judicial branches of the federal government. (See esp., United States District Court, 4th Division District of Minnesota, File No. 4-73 Civ. 473, and 8th Circuit Court of Appeals, File No. 73-1137.)

Dr. Wild, a naturalized American citizen, was unaware of the extent of the defendant-appellees influence and animosity until he attempted to get sponsors for his federally-funded research following the Amherst Wilder and Minnesota Foundations precipitate withdrawal of their sponsorship. The

foundations, incredibly, denied this world-eminent scientist access to his research facility while they dismantled and destroyed his unique disciplinary scientific laboratory and malevolently prevented its reconstruction and also prevented the project's continuation under other sponsorship. (See Resp. Supp. Record, pp. 1-200 and Resp. Brief, pp. 7-29.)

In consonance with his other professional medical duties, Dr. Wild appeared as an expert witness in medical malpractice cases during the six-year period before his case came to trial. (N.B. In a jurisdiction where two years is the average trial delay.)

While the instant case was being subjected to delay after delay by defendants' counsel, a malpractice suit (Mulder v. Parke Davis, et al, [1970], 288 Minn. 332, 181 N.W. 2d 882) in which Dr. Wild appeared as an expert witness and in which the St. Paul Companies were interested, was appealed to the Minnesota Supreme Court.

Judge Otis, Vice President and board member of the defendant-appell-

ee foundations, wrote the opinion.

Judge Otis personally owns a substantial block of stock in the interested insurance company (St. Paul Companies).

Judge Otis voted St. Paul Companies stock in conjunction with his fellow foundation board members having a market value at the time of trial of over 60-million dollars. (The defendant-appellee foundations own a substantial portion of the outstanding stock of the St. Paul Companies, amounting to hundreds of thousands of shares and effective control.)

The St. Paul Companies have a substantial monopoly of malpractice insurance in Minnesota as well as in other states.

Judge Otis' colleagues on the Minnesota Supreme Court are trustees (visitors) of the Amherst Wilder Foundation, responsible for the protection and maintenance of the foundations' assets (which assets include the St. Paul Companies' stock holdings).

In writing the opinion referred to above (i.e., Mulder v. Parke Davis, et

al), Judge Otis, individually and on behalf of his fellow supreme court judges, took unethical and criminal advantage of his high judicial position. (see Minnesota Statutes 609.43 making it a crime to use a public position to injure another.)

The entire permanent Minnesota Supreme Court, speaking through Judge Otis, libeled Dr. Wild professionally. (See motions for disqualification and recusation, filed March 12, 1973.)

The purpose and result of this act was to serve the financial interests of the St. Paul Companies and the defendant (appellee here) Amherst Wilder Foundation.

Dr. Wild was discredited as an expert witness to protect the assets of the St. Paul Companies, both as to liability for malpractice claims and, also, as to Dr. Wild's personal suit against the Amherst Wilder Foundation.

The St. Paul Companies carry million-dollar policies protecting the defendant-appellee foundations in this appeal.

The State Judicial Responsibility

Committee, led by then Chief Judge Knutson, refused to act when these facts were brought to its attention. Said committee included Minnesota District Court Judges Preece, Fosseen and Odden who were later appointed to the temporary panel to decide this appeal.

Judge Otis apparently committed multiple acts of perjury while testifying during the trial in the instant case in an effort to cover up his illegal activities on behalf of the St. Paul Companies and the defendants (appellees here). (See Transcript, pp. 3281 to 3306 and Resp. Supp. Record, SR128 to SR141.)

Therefore, when Amherst Wilder appealed the 16-million dollar judgment against itself (and, by implication, against its insuror, St. Paul Companies), to its own trustees, the Minnesota Supreme Court - in effect appealing to itself - Dr. Wild filed affidavits of prejudice. The Amherst Wilder visitors, i.e., the Minnesota Supreme Court, refused to accept the affidavits of prejudice or even to file them. The plaintiff (appellant here)

then prepared and filed motions for recusation. In the meantime, the Supreme Court sponsored and lobbied a special act through both houses of the legislature in a matter of days. The legislature was told by the Minnesota Supreme Court, through its Chief Administrator, that it was only being asked to pass a law which would reestablish an old constitutional provision as law in the event of multiple disqualification on the supreme court. (See Transcript of Proceedings before Minnesota Senate Sub-committee on Judicial Administration, Feb. 2, 1973.) This was a fraud and a criminal corruption of the legislative process. IN TRUTH AND FACT, WHAT THE COURT WAS DOING WAS GETTING AUTHORITY SO THAT THE JUSTICES COULD DISQUALIFY THEMSELVES YET CONTROL THE APPEAL BY APPOINTING THEIR OWN REPLACEMENTS AND THEREBY AVOID DIRECT PUBLIC RESPONSIBILITY FOR WHAT WAS OBVIOUSLY A PREDETERMINED DECISION ON APPEAL! The old constitutional provisions, which the court misrepresented to the legislature, in reality provided for the GOVERNOR or, in the event of his dis-

qualification, the LT. GOVERNOR, to appoint temporary replacements to the court. (See Article VI, Sect. 3, Minnesota Constitution as amended, 1876.) The covert purpose of ramming through this legislation, in addition to avoiding public exposure, was to avoid losing absolute control of the appeal. The law enabled the court to select its replacements to guarantee the highest degree of partiality, not the highest degree of impartiality as constitutionally required. Also, it will become evident that the granting of a new trial with tailor-made strictures on the plaintiff (appellant here) was a technique of controlling and pre-determining the outcome of the new trial in favor of the Amherst Wilder Foundation.

The court then purportedly disqualified itself en banc. The court did not act on the specific motions for recusation nor did it publicly reveal WHY the entire supreme court was disqualified.

The purportedly disqualified regular court refused to disclose the procedure that would be followed in the

appeal or in the selection of the panel. (See correspondence cited supra.) The panel itself was not named until shortly before the arguments (April 10, 1974). Following the appointment of the panel, it was determined that the court-selected companion panel was just as prejudiced as the regular court which had been forced to disqualify itself. For example, chief substitute Judge Rosgren, who probably wrote the "Per Curiam" opnion, may well have continuing financial interest in the St. Paul Companies through the law firm he headed before his appointment to the bench and wherein he represented the St. Paul Companies. Judge Rosengren and at least two other members of the court-selected companion panel were formerly acting associate justices on the supreme court, acting generally in agreement with the disqualified court. They worked in close association with Judge Otis during the time the Mulder, supra, case was decided. The current regular Chief Justice Sheran participated in the Mulder, supra, case and, like Rosengren, may well have continuing financial and personal int-

erest in the St. Paul Companies as a senior partner of the St. Paul Companies Mankato, Minnesota, law firm prior to initially going to the court. Further evidence of prejudice and partiality of the temporary panel can be found in the appendix to respondent's (appellant herein) petition for rehearing, the petition itself, Dr. Wild's affidavit of October, 1972, and the temporary panel's opinion.

Chief Judge Rosengren crudely displayed the temporary panel's disdain for constitutional due process and equal protection by suggesting in a letter to Dr. Wild's attorney, written during the deliberations, that if Wild didn't like the way law was administered in this country, he should go back to England! Judge Rosengren also accused Dr. Wild's lawyer of being "impertinent" for simply making inquiry as to the procedures to be followed in this extraordinary appeal, and accused Dr. Wild of being the originator of this "impertinence"! (See letter dated July 5, 1974, Rosengren to Williams.)

The regular supreme court ruled

on important motions (e.g., Motion to Dismiss Appeal dated August 20, 1973, Denied by disqualified court on August 27, 1973, without reasoning, law or comment), even after it had disqualified itself. The long delay in announcing the selection of the substitute panel until shortly before the arguments prevented Dr. Wild from adequately determining the qualifications of the individuals selected by the disqualified court. (See Order of Chief Judge Sheran dated April 10, 1974 - contrast Notice of Disqualification dated March 12, 1973, over a year's delay.) The panel refused to submit to voir dire and volunteered no information whatsoever that would bear on their qualifications to serve.

The substitute panel denied all motions, including the constitutional issues, without comment, reasoning or legal authority; refused to compel the large law firm representing Wilder Foundation to abide by appellate rules; ignored affidavits of prejudice filed against them, and asked no material questions at oral argument. (NO quest-

ions whatsoever were asked on "misconduct", the panel's pretended cause for reversal.)

The temporary companion court's decision in professional essentials was a sophomoric subterfuge at best -- criminal and irresponsible at worst. (See esp. Petition for Rehearing, April 15, 1975.) The conspiracy to deprive Dr. Wild of his priceless constitutional rights to due process and equal protection and to destroy his substantial money judgment was complete (just as the defendants [appellees here] and their judges had destroyed his substantial professional standing [i.e., see Mulder opinion, supra,] and research project earlier.)

The defendant-appellee foundations' continuing control of the appellate process in Minnesota creates an infinite plane (mobius strip) of never-ending litigation. They have the power to prolong the litigation until Dr. Wild's death (see panel's decision, Appendix A here, esp. Ft. Nt. 17 re: survival of causes of action after death); in effect, delaying justice forever.

(e) The federal questions presented are substantial.

There is no more fundamental tenet of our constitutional government than that justice shall be administered in accordance with established principles and not at the whim, caprice, or personal notions of justice held by individuals exercising the power of the state. The integrity of the judicial process is the very foundation of the constitutional rights guaranteed in the 14th Amendment. It is almost inconceivable that a more substantial federal question could be submitted to this court.

The paucity of material in the field of civil appellate due process and equal protection is evident in researching the cases, reviewing the literature and discussing the issue with constitutional scholars.

The very dearth of decisions and scholastic analysis indicates the need for long-overdue, clear, concise enunciation of constitutional principles involving due process and equal protection in civil appeals.

While this court has decided hun-

dreds of cases involving constitutional standards of criminal law in recent years, showing great compassion and zealousness to protect the constitutional rights of rapists, murderers and child molesters, an imbalance in output concerning the civil rights of the law-abiding, the poor and those lacking in special influence seems to exist. A government of laws must have at least equal concern for both criminal and civil due process. Clear constitutional standards and principles are the only weapons to protect us from the irrational and inhuman predacity of the rich, powerful and influential who consider themselves judge-makers. Men who cynically disregard the rights of others and subject the common man to specially-created law for the protection of their own interests endanger the very foundation of civilization. When law is a mere implement serving the interests of the privileged few, equality, according to the cherished precepts of our American Republic enunciated in the Constitution, is a mockery.

The appellate tribunal is not a House of Lords but must be an inherently democratic institution adhering to reasonable standards (due process and equal protection) of impartiality, reaching its decisions in a dispassionate atmosphere of applying established law and professional legal standards. (A judge cannot judge his own case; see U. S. v. United Mine Workers, supra.)

To substantially reduce the requirement of a reasoned opinion publicly applying established law to established fact, resurrects the scourge of the Dark Age Inquisition - the "Star Chamber", and allows secret reasons arrived at outside regular judicial process. The law and the judicial system are delivered by order to the market place of the privileged. The back door becomes the courtroom; the court proceedings - cheap, hypocritical charades. Justice can become whatever one wants and has the wealth to purchase.

The standards of equal protection and due process we seek are absolute necessities for the man of today. We should be regularly reminded that mod-

ern man is only slightly removed from the untold thousands of generations who knew nothing but naked power and survival of the fittest without law of any kind.

Law is a noble but, nevertheless, young, frail and delicate concept in a universe of endless destruction. It must be treated with care.

Appellate judges must abide by the same constitutional principles that apply to trial judges and juries if the system is to work.

THE CASE IS OF SUCH IMPORTANCE THAT IT REQUIRES PLENARY CONSIDERATION.

The spirit of Watergate and its near destruction of what little remained of public confidence in the legal profession and the judicial process still pervades the land. The echoes of Watergate will not be stilled unless an unequivocal procedure incorporating principles of due process and equal protection are enunciated and effected. The John Wild, M. D., case can be another Dred-Scott decision or it can be a beginning of bringing the concept of "equality" into reality in

the realm of civil law.

The law must not fail to cast aside the special privilege control of the judiciary in Minnesota as a resounding precedent and a warning to judicial corruption in other jurisdictions.

All the necessary ingredients for reaffirming the concepts of traditional American fair play are present in Dr. Wild's case.

The prevalence of the belief that large law firms, acting for their powerfully rich clients, control appellate judges is overwhelming. Wild v. Rarig, et al, stands in stark support of that proposition. (See Decision, Appeal to 8th Circuit herein - there the court refused to even issue an opinion, a case of gross perversion of legal process. Consider also the license to ignore the Minnesota Rules of Civil Appellate Procedure granted by the panel to the foundations' large law firm and the substitute panel's decision itself; see Motions of May 14, 1974 and April 19, 1974.)

This, then, is not simply discrimination against Dr. Wild, an English

immigrant devoted to free research, and special favor for Amherst Wilder, St. Paul Companies and their associates; but the general corrosion of judicial fairness where the interests represented by the independent lawyer are discriminated against and special laws, special rules and special decisions are rendered to the order of the large special interests and their corporate law firms.

In a rare moment of candor, the Minnesota Supreme Court, speaking through its lawyers, admitted by implication that they considered due process and equal protection in appellate proceedings not substantial questions (see proceedings before U. S. District Court and 8th Circuit.) Thus, the bizarre disregard of their constitutional responsibilities in the Wild case by the Minnesota Supreme Court and its companion panel is overwhelming evidence that they practice what they preach.

In summary, the enactment, substance and application of the statute (Official Edition, Minnesota Statutes, 1974, Volume I, p. 50, also cited as

Laws, 1973, Chapt. 18, ss. 2, Governor Approval, March 9, 1973, also known as Minnesota Statutes Annotated 2.724, Subd. 2.) constitute an unconstitutional discrimination against Dr. Wild and a violation of his civil rights in that the law was used as a vehicle to deny him:

(1) A fair and impartial hearing;

(2) Reasonable findings of fact and law expressed with reasonable cogency and logic in an understandable opinion;

(3) The right to the application of established principles of law fairly by impartial appellate judges;

(4) The right to be free of unconstitutional interference with jury trial; and,

(5) The right to speedy justice (and a corollary condemnation of Dr. Wild to perpetual litigation until his death).

Underlying this entire appeal are the key subsidiary questions:

(1) Is an arbitrary, capricious, unprofessionally prejudiced appellate

function depriving a citizen of his "jury right" (i.e., effectively taking away his <u>right</u> to a fair trial) constitutionally allowable?

(2) At what point, if at all, does the economic disparity of the parties in civil cases, limit (as a matter of constitutional right to due process and equal protection) the rights of appellate courts to grant new trials, where such action is tantamount to a permanent deprivation of property?

The granting of a new trial <u>contrary to law and fact</u> by the "puppet" or "companion panel" is tantamount to a final and complete destruction of Dr. Wild's remedy, for what reasonable standards of integrity and fair treatment can be extended in this case if the acts of defendants (appellees here), their counsel and the Minnesota temporary and permanent Supreme Courts are upheld? Dr. Wild can now never have a fair hearing in Minnesota. The defendant-appellees have wilfully precluded this. <u>Therefore, the only fair solution</u> is to set aside the panel's unlawful decision and order reinstatement of the verdict

or order the appointment of an impartial panel for total reconsideration.

The statute (upon which this appeal is founded), its enactment and approval provide the framework of this entire inordinate perversion of due process and equal protection.

Some of the extensive personal and professional misconduct of the temporary panel is listed in Addendum I to the Petition for Rehearing.

The undue influence of Amherst Wilder Foundation and the St. Paul Companies amounts to a corruption of the appellate process.

At no time did either the temporary panel or the regular court disavow their foundation-trustee allegiance to the defendants (appellees here) Amherst Wilder Foundation and the Minnesota Foundation. Judge Otis admitted during examination at trial that he would go outside normal legal channels when it "effects my fiduciary", i.e., the foundations. (A criminal act in Minnesota-Minnesota Statutes Annotated 609.515 - to go outside regular course of proc-

eeding.) He further stated that he considered Dr. Wild had sued him personally when the Doctor sued his "fiduciary", i.e., the foundations.

At the hearing, the temporary panel asked a question on the issue of Wilder Foundation's responsibility for the acts of other defendants (appellees here) that had been conceded at the trial by the defendant and WAS NOT raised on appeal! (See transcript of Arguments before panel.) The perverse prejudice was demonstrated further in the opinion by the raising of the conceded issue again! (See Ft.Nt.5, esp. Ft. Nt. 15, panel's decision, Appendix A here. Obviously, done in a prejudiced attempt to preserve Amherst Wilder's assets, i.e., exercising their responsibility as "visitor-trustees" of Wilder, hardly surprising as they are deciding their own appeal!)

As Judge Otis admitted (vide supra) special treatment is granted for Amherst Wilder. There was no censure for the Mulder, supra, libel, and three supreme court panel judges participa-

ted in that early refusal to rectify improper conduct. (These same three judges, predictably, decided this case in favor of Amherst Wilder and St. Paul Insurance Companies.)

Finally, can an appellate court deprive this plaintiff-appellant of a 19-million dollar verdict and judgment without reasonable standards or can secret bases for the decision arrived at outside the regular course of legal proceedings constitute due process?

This court must enunciate standards to be followed by appellate courts throughout the land.

"Watergate-type" morality must be rejected in the administration of justice by the United States Supreme Court.

A refusal to act and rectify this judicial impropriety will be a repudiation of the traditional American ideal of fair play and the reestablishment of the dominion of raw power. The highest court of the land will, in effect, embrace and legitimize corruption and prejudgment as the law of the land. The victory will not just go to the sycophants and special influence peddlers

in Minnesota but will go equally to all those manipulators throughout the land who would trade our federal constitutional heritage for a "mess of financial pottage".

This simple truth cannot - must not - be ignored: <u>That the civil rights of this appellant have been destroyed by a corrupt conspiracy of judges, influential legal, insurance and banking interests and a criminally perverted legislative process</u>.

The Constitution is sacred to each of you. Your oath of office affirms your duty. As Doctor Wild stated in his letter to the Minnesota Supreme Court on March 10, 1975:

> ". . . Rules of Civil Appellate Procedure (and law) must be adhered to in order to sustain and develop civil order; the alternative is chaos. Orderly appellate procedure must be followed so that decisions can be made and legal documents prepared according to procedural and substantive law. Failure of the judicial branch of state government to abide fully by these rules and differential selection of those rules to be applied

from the start of the appeal have deprived me of my constitutional rights to due process and equal treatment before the law and, in that regard, I have recently had occasion to review, at the suggestion of my attorney, in response to my searching inquiry as to the legal meaning of my constitutional rights to equal protection and due process, the brilliant reasoning of the United States Supreme Court in Cooper v. Aaron (1958) 358 U.S. 1, as presented in "The Bill of Rights Reader", Cornell University Press (1974) by Prof. Milton R. Konvitz. Chief Justice Warren, as you know, stated on behalf of the court, that the 14th Amendment 'commands' that NO STATE AGENCY, whether it be legislative, executive or judicial, deny to any person within its jurisdiction the equal protection of the laws.

"It is now clear that litigation involving the Amherst Wilder Foundation, a multi-million dollar, private Minnesota corporation, and its affiliates, inevitably causes breakdown of established governmental procedures applicable to the judicial branch of state government because of the involvement of the state supreme court and other state officials with this

private corporation.

"Attempts by the Supreme Court of Minnesota to circumvent the problem have resulted in illegitimate improvisation of appellate procedure and to improprietous, arbitrary and capricious solutions, in contravention of constitutional guarantees of due process . . . "

Recently, Dr. Wild summarized the transcending importance of this appeal:

"Failure to fully, fairly and completely review and rectify this odious situation would at best be a tacit approval by the highest guardians of our constitutional rights, of dishonesty, discrimination in appellate proceedings and a callous disregard of civil appellate due process -- at worst, a wilfull participation in a heinous criminal conspiracy to deprive me of my civil rights."

The United States Supreme Court must decide if America's ideals of fair play and equal rights before law apply to the poor of this country or if the court system is the private hunting preserve of the rich where the poor are mere poachers who can be figuratively shot down for having the audacity to

trespass; a system wherein the merits of the poor man's cause are always mere trivia and the magnitude of the injustice that may have been committed against him is invariably insignificant.

A President of these United States once stated the essential principle of due process and equal protection as follows:

> "Through compassion for the plight of one individual government fulfills its purpose as the servant of all the people."

Respectfully submitted,

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